

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 19,379
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision of the Department for Children and Families (DCF) terminating her Vermont Health Assistance Program (VHAP) benefits. The issue is whether the fact that the petitioner recently became eligible for Medicare precludes her eligibility for VHAP.

FINDINGS OF FACT

1. The petitioner has been on VHAP since 1997. Her income is \$882 a month from Social Security. In March 2004 the petitioner became eligible to receive Medicare through the Social Security Administration.

2. In October 2004 the Department sent the petitioner a notice that her VHAP benefits would cease because of her eligibility for Medicare.

3. The petitioner agrees that she is eligible for Medicare, but she maintains that it does not provide full coverage and is prohibitively expensive. Presently, the petitioner receives only Part A Medicare, for which there is

no premium. However, according to the petitioner this covers only inpatient hospitalization and has a deductible of \$900.

4. The petitioner has declined Part B Medicare coverage, which she understands would cover 80 percent of doctor's visits and certain other medical expenses. The petitioner maintains that to receive Part B she would have to pay a monthly premium of \$72.

5. The petitioner maintains that her current basic living expenses are in excess of her monthly income. Based on her income her current VHAP premium would be \$40 a month.

ORDER

The Department's decision is affirmed.

REASONS

PATH's regulations limit VHAP coverage to "uninsured and underinsured" individuals. VHAP 4001.2. This regulation further provides:

Individuals meet this requirement only if they do not qualify for Medicare . . .

In this case, there is no dispute that the petitioner is eligible for Medicare. There is a provision in the regulations that excepts individuals who lose *private* insurance coverage because their income is below 75 percent of poverty (which for a single individual would be \$581 a month).

However, there is no provision in the regulations that allows the Department to consider the living expenses and/or personal hardships of *any* individual who is eligible for Medicare.

The petitioner is also eligible for Medicaid, but it appears that based on her income she has been assessed a "spenddown", or deductible, of about \$600 before Medicaid can cover any of her medical expenses within a six-month period.<sup>1</sup> However, inasmuch as the Department's decision in this matter regarding the petitioner's eligibility for VHAP is in accord with the pertinent regulations, it must be upheld by the Board. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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<sup>1</sup> The petitioner is advised, however, that Medicare premiums, copays, and deductibles are allowable expenses for Medicaid spenddown purposes.